



Re: Regulation BB: Community Reinvestment Act [R-1769] Docket ID OCC-2022-0002, RIN 1557-AF15; Docket No. R-[•] and RIN 7100-AG [•]; RIN 3064-AF81]

From: Center Creek Capital Group

On May 5, 2022, the Board, FDIC, and OCC issued a Notice of Proposed Rulemaking (NPR) to amend the regulations implementing the Community Reinvestment Act of 1977. We wish to comment on three aspects of the Proposed Rule in particular:

- A) Question 7: Should the proposed approach to considering naturally occurring affordable housing be broadened to include single-family rental housing that meets the eligibility criteria proposed for multifamily rental housing? If so, should consideration of single-family rental housing be limited to rural geographies, or eligible in all geographies, provided the eligibility criteria to ensure affordability are met?
- B) The NPR proposes to define “affordable housing in the following way “. . . the rent for the majority of the units in a multifamily property could not exceed 30 percent of 60 percent of the area median income for the metropolitan area or nonmetropolitan county.”
- C) Submitting information on qualifying activities

About Center Creek Capital

Center Creek Capital is uniquely qualified to opine on Question 7 since we are a mission-oriented investment and development company, specializing in affordable single-family rentals (SFR). Our differentiated approach provides an alternative to the large institutional investors active in SFR. Center Creek has voluntarily committed to make at least 75% of its investments qualify as Public Welfare Investments, and currently over 90% of our units are either affordable to low/moderate income residents, located in low/moderate income census tracts, or both. Center Creek invests capital to address the significant deferred maintenance in older housing stock and preserve the units as affordable housing. The average vintage of the houses Center Creek rehabilitates is 1970s, much older than the large public SFR investors, and our renovation work includes upgrading all the major systems (plumbing, electrical, HVACs), repairing or replacing roofs, windows, and insulation to make the property more energy efficient, and updates to kitchens, bathrooms, and living areas. Founded in Center Creek, has acquired, renovated, and managed over 450 single family houses, currently manages over 300 rental units, and is on track to reach over 500 units in the next year.

In addition to providing high quality, durable, affordable housing to our residents, Center Creek also differentiates itself by providing a suite of resident services, including free financial literacy training and credit counseling. Center Creek’s Pathway to Homeownership (P2H) program helps turn renters into homeowners by providing a 2x savings match to help residents save for a down payment and offering closing cost assistance. Center Creek Internet Connections provides free broadband internet and a laptop or tablet to income-qualified residents in order to bridge the digital divide.

Center Creek’s founder, Dan Magder, was formerly a Director of Investments for Lone Star Funds, a \$60 billion private equity fund that was the largest buyer of non-performing residential loans during the Great Recession. He is a thought leader on market-driven affordable housing and impact investing, and

has spoken at the White House National Economic Council, Harvard Business School, GW Business School, and numerous industry conferences. He has published policy briefs through the Urban Institute, Peterson Institute, and Mission Investors Exchange. Center Creek is supported by a Social Impact Advisory Board of nationally recognized thought-leaders in affordable housing and impact investing, including the former Deputy Secretary of HUD, the Former Chief of Treasury's Homeownership Preservation Office, the head of impact investing for a public REIT, and two of the largest institutional impact investors in the country.

Center Creek Responses to the NPR

1. Our response to the NPR Question 7 is a resounding “yes” – single-family rental housing that meets the eligibility criteria for affordability should be included in the definition of naturally occurring affordable housing. This definition should apply not just in rural geographies, but also in any area where single-family rental housing meets the affordability eligibility criteria.

Professionally managed single-family rentals are a form of multifamily housing – large numbers of rental units managed in a uniform manner according to standards around tenant screening/leasing, repairs & maintenance, and collections. Operators who invest capital to rehabilitate and preserve older vintage single-family housing as affordable rentals – addressing the significant amounts of deferred maintenance that these housing face – are expanding the affordable housing stock at a time when there is a critical shortage of supply¹. Moreover, single-family housing often provides a larger/better living experience to a low/moderate income family: the typical single-family rental offers three bedrooms and two bathrooms, anywhere from 1200 to 2000 square feet. Single-family rental units provide more bedrooms, more indoor living space, and amenities like a front and/or backyard and off-street parking.

Given the standardized management and operations around portfolios of single-family rentals, the opportunity to invest capital to preserve and upgrade existing housing stock, and the quality of the resulting rental housing for low/moderate income residents, portfolios of single-family rentals that meet affordability criteria are an important complement to other initiatives aimed at expanding the supply of affordable rental units. Affordable single-family rentals, therefore, are a critical part of the multi-pronged approach to address affordable housing in this country and should be included in the regulations for Community Development.

2. On the question of affordability, we support keeping the definition of affordable rents at 30 percent of 80 percent of area median income (AMI) rather than lower it to 30 percent of 60 percent of AMI. Reducing the standard from 80% to 60% will exclude approximately 33,000,000 Americans from being served by CRA initiatives and funding. Many of the people who would be excluded are already housing cost burdened, even now at a time when CRA funding supports projects that are directed at them. Eliminating this focus will severely increase the housing insecurity of an extremely large and vulnerable segment of the population.

Even under the current rules, where CRA is focused on 80% AMI and below, immediately above that there is a cliff: people who are at 81% or 82% do not receive support. With a sharp cut-off like that, people can become a victim of their own success if they get a raise or work overtime and no longer

¹ “Single-Family Rentals: A New Approach To Affordable Housing,” Urban Institute, September, 2015 co-written by Dan Magder, Center Creek Capital's founder, and Laurie Goodman, founder of Urban Institute's Housing Finance Policy Center <https://www.urban.org/research/publication/single-family-rentals-new-approach-affordable-housing>

qualify for programs that target a certain income². By changing the rule to focus CRA only on residents at or below 60% AMI, the regulations will expand the cliff to the entire population in between 61%-80%.

In addition, it is already difficult for banks and developers to serve residents who are between 60-80% AMI, naturally occurring affordable housing (NOAH) without subsidies. If the goal of the rule is to define and preserve affordable, *unsubsidized* housing, reducing the level of rents that developers can charge to 60% of AMI will dramatically lower revenues without a measurable associated reduction in expenses, making these previously affordable housing projects non-viable. Doing so will decrease the amount of affordable housing stock in the country.

3. We support the agencies' proposal to maintain a list of CRA eligible activities but would ask that they open up the application process to project sponsors, not just participating banks. Project sponsors often have more detailed data on the population they are serving and the strategy they are using to reach that population, which would provide the agencies with richer data for their review. In addition, sponsors are quicker to embrace innovative approaches to community development and more likely to submit them to the agencies for consideration, facilitating the process of having these innovative methods diffused into the communities where they can benefit populations who need them.

We appreciate your openness to considering these viewpoints, and hope you will give them serious and positive consideration in the final rule. By doing so we will come up with a stronger overall approach to directing needed investment funds to deserving people and communities across the United States.

Sincerely,



Dan Magder
Managing Partner
Center Creek Capital Group

And:

Luke Apicella, Center Creek Impact Advisory Board, and PGIM Real Estate, Impact and Responsible Investments, Vice President

Phyllis Caldwell, Center Creek Impact Advisory Board, and Former Chief, Homeownership Preservation Office, U.S. Department of Treasury.

A.J. Jackson, Center Creek Impact Advisory Board, Executive VP Social Impact Investing, JBG Smith

William Orum, Center Creek Impact Advisory Board, and Partner, Capricorn Investment Group

Pamela Patenaude, Center Creek Impact Advisory Board, and Former Deputy Secretary of HUD

² According to the most recent *State of the Nation Housing Report* by the Harvard Joint Center for Housing Studies, over 46% of all renters are at least moderately cost burdened – and while lower income households are hit particularly hard, nearly 25% of households making \$45,000-\$74,999 are house burdened. These statistics are true today even when people in the 60-80% AMI are supported by CRA initiatives; excluding them will only increase their housing the percentage of cost burdened Americans. “*The State of the Nation’s Housing 2022*,” Harvard Joint Center for Housing Studies, 2022

Background On Affordable Single Family Rentals As a Critical Complement to Traditional Multifamily

This supplement provides more context to a few key points in our response, specifically:

- Preservation, not just construction, of affordable single-family rentals (SFR) should be considered under the community development definition
- Professionally managed single-family housing at scale is a form of multifamily housing, and therefore investments in portfolios of single-family rentals should be eligible for community development credit in the same way as other investments in multifamily housing
 - 50.2% of all rental units in the United States are single-family rentals, so including single-family rentals can double the size of the addressable market for affordable housing
 - Single family rentals typically offer more living space (bedrooms, square feet) and amenities like off-street parking and yards, making them qualitatively better living experience for low/moderate income individuals and especially families
- Professionally managed single-family rental housing is distinguished by having a sponsor that applies consistent standards to property management, repairs & maintenance, and tenant screening/collections. These standards enable professional SFR to be consistent with regulations such as the Fair Housing regulations
- Lenders, including the GSEs in their pilot programs, have recognized that single-family rentals are a form of multifamily and provide multifamily loans on portfolios of SFR

As stated in the NPR, the current CRA regulations define “community development to include affordable housing (including multifamily rental housing) for low or moderate income individuals.” It goes on to state that “Single-family home mortgages are generally considered as part of the lending test. . .” This definition seems to relegate single-family to only the lending test and not part of Community Development / investment test. However, the NPR does leave open the possibility that Community Development could include affordable housing to low or moderate income individuals that is also single-family rental. Moreover, the NPR states that in the context of single-family housing, “activities that support the construction of affordable housing are considered under the community development definition.” We want to make the case that the preservation of affordable single-family housing should also be considered under the community development definition. The distinction between multifamily and single-family rentals is outdated, and moreover, the spirit of the regulations should encourage community development investments in preservation of single-family rentals that are affordable to low or moderate income individuals as a way to improve the nation’s supply of affordable units.

Specifically, we strongly support the case that professionally managed single-family rentals are a form of multifamily housing, and investments in portfolios of single-family rentals should be included for Community Development credit. The current proposal reflects an outdated notion of a dividing line between multifamily and aggregated portfolios of single-family.

As recently as the late 2000s, nearly 95% of the single-family rentals in the United States were owned by individuals or small companies who owned 5 or fewer units. This highly fragmented market of mom-and-pop investors often owned properties as a side business and/or an investment for their retirement. These investors would generally serve as their own property managers, conducting ongoing repairs, maintenance and collections themselves – with highly variable standards for renovations and upkeep, tenant screening, and collections. As has been reported in many recent news stories, with the wave of foreclosed homes that hit the market during the Great Recession and advances in technology for

property management of scattered units, professional investors moved into the space. Today, professional SFR investors constitute a fraction of the market, with about 4% total ownership share of houses in the country. However, on an individual level, several of them have sizeable portfolios, with the largest four companies now having somewhere between 40,000 and 80,000 houses each, and several smaller investors owning 1,000 to 5,000 house portfolios.

As this trend developed, Dan Magder the founder of Center Creek, and Laurie Goodman at the Urban Institute, recognized the emerging dynamic in their 2015 paper “Single-Family Rentals: A New Approach to Affordable Housing,” and made the case that professionally managed single-family rentals are a form of multifamily housing³. Not all SFR investors are focused on affordable rents for LMI residents, but those that are should be part of the affordable housing conversation.

Professional SFR sponsors have management practices consistent with owners of traditionally defined multifamily properties. Compared to mom-and-pop investors, professional SFR sponsors have clear standards in place regarding up-front renovations, regular maintenance inspections, and ongoing repairs; they have set guidelines for tenant screening and collections in order to comply with regulations such as Fair Housing policies; they have processes in place for paying local taxes, having sufficient insurance, and managing the properties so as to comply with local regulations and ordinances.

Therefore, if a sponsor has 20 or 100 single-family units in a neighborhood or area, how is it that different from a sponsor with 20 or 100 units in an apartment building? Under the proposed rule the latter is considered multifamily and as such qualifies for Community Development credit under the proposed CRA rule. However, the SFR portfolio is effectively an apartment building on its side.

Indeed, since the time of our writing that paper, the case for considering SFR as a type of multifamily housing has been effectively settled by the broader business community: lenders have recognized that professionally managed SFR is indeed a subset of multifamily. Back in 2015, it was extremely hard to get financing from a bank for scattered SFR portfolio – the commercial real estate lenders would scratch their heads over underwriting collections of single-family houses and redirect potential sponsors to the banks’ residential mortgage group. The residential group would in turn scratch their heads and ask for a sponsor’s credit score and income, try to calculate a DTI for the sponsor, and get tripped up – and also get stopped by the GSEs 4-unit and 10-unit limits (Freddie and Fannie limits, respectively⁴) on investor loans. Fast forward to 2022 and the debate has been conclusively settled. SFR investors routinely access financing from commercial real estate lenders on commercial real estate terms. The underlying collateral may be single-family houses, but the underwriting is not credit score and DTI based; instead, the lenders look at cash flow, debt service coverage ratios (DSCR), interest reserves, liquidity of the sponsor, and other metrics that put the financing squarely in the same category as a loan on a 20 or 100 unit apartment building. Even the GSEs have piloted programs to lend to portfolios of single-family rentals through their multifamily groups⁵.

³ “Single-Family Rentals: A New Approach To Affordable Housing,” Op Cit.

⁴ Freddie now allows up to 6 single family loans to an investor. Fannie allows up to 10 single family properties to be financed by a single investor.

⁵ The GSE’s SFR lending programs were halted by the FHFA in response to criticism from housing advocates who were concerned about subsidizing debt to large institutional investors. Center Creek advocates the notion that the GSEs should revisit their SFR lending programs subject to stronger requirements for affordability of the rental units, consistent with the GSEs housing goals.

Clearly, professionally managed SFR is a form of multifamily housing, and the traditional dividing line based on underlying collateral is no longer relevant and must be eliminated. Regulators should look at the purpose of the SFR portfolio, and affordability of the associated rents, to determine Community Development status.

There is another reason why it is so important to include – and even encourage – scattered single-family rental portfolios to be included in the Community Development goals of CRA: anyone who cares about affordable housing in this country is aware of the need to expand the availability of quality affordable rental housing. Let’s consider the manner in which affordable SFR can dramatically expand the affordable housing stock.

The crisis in affordable housing in the United States is, at its core, a crisis is linked to demand growth outstripping new supply in markets. However, while affordable housing advocates traditionally focus on multifamily buildings to address the affordable housing shortage, the data show that 50.2% of all rentals in the United States are in fact single-family rentals⁶. That means that the supply of single-family rentals is actually slightly larger than the number of multifamily units across the country. If we all agree that there is a crisis in affordable housing and we’re intentionally ignoring half of the addressable market, how can we hope to solve the problem? By contrast, if we embrace single-family rentals that meet affordability requirements into the affordable housing conversation, we can “unlock” twice as much potential housing stock and bring it into the affordable housing conversation. To address the crisis, we need an “all of the above” strategy – building new supply, preserving existing and aging units, focusing on affordable multifamily and single-family properties, and expanding the boundaries into untapped housing stock that can bring more units into the affordable housing fold.

More than just increasing the universe of affordable housing units, single-family rentals typically provide a quantitatively and qualitatively better living experience to LMI residents. At Center Creek, our average rental property is a 3-bedroom, 2-bathroom, 1,500 square foot house that rents for about \$1,400. It is extremely difficult to find 3-bedroom apartments in multifamily buildings. Compared to multifamily, our units have more bedrooms and more living space; they typically have an eat-in-kitchen, a living room, or both; central air conditioning, hook-ups for in-house washers and dryers, off street parking, and a yard. Bottom line, our single-family rentals offer more bedrooms, more living space, and more outdoor space than a nearby apartment at a comparable rent.

This difference in living experience matters to our residents. They don’t just see their rental as a house, they see it as their home. We know this from talking to them, but we also see it in the data; they stay longer: nationally, multifamily turnover is around 50%, for affordable multifamily it may be 40-45%. By contrast, turnover in single family rentals is closer to 35-40%, and for affordable single-family rentals it is high 20% to low 30%. When people stay longer, they put down roots in their communities. They become part of their neighborhoods. Their children stay in their school districts longer. Our affordable single-family rentals are literally providing a foundation of stability for LMI families to focus on everything else they need to improve their lives – by addressing shelter, one of the most fundamental human needs, we help enable our residents to focus on education, health, employment, etc.

We also know that it is extremely hard to build new affordable housing without massive subsidies, which is why the LIHTC program is so important⁷. In the absence of these subsidies, private sector developers

⁶ 2019 American Community Survey, 1-Year Estimates, US Census Bureau

⁷ On a similar note, based on the recognition of professionally managed single-family rentals as a type of multifamily, affordable single-family rental projects should qualify for LIHTC financing.

tend to focus on high-end product since the margins are higher. In this environment, most affordable housing is only created over time, the result of population shifts and deterioration of housing stock. Developers generally build “class-A” housing, and over time as people move and demand shifts, houses deteriorate, the A houses become B+ or B-, and formerly B houses become C+ or C or C-. Therefore, while building new supply of affordable housing is a critical part of the solution to the housing crisis, so too is preservation of existing units a critical complement to new construction. In fact, we can buy a distressed house and renovate it to create a quality home for less than it would cost us to build new, because we are recycling/reusing the existing housing⁸. At Center Creek, our goal is to take aged housing that has often been neglected and has significant deferred maintenance, and create durable, updated, attractive housing. In other words, we take a C- house and make it a B- or B+ house – at affordable rents. We repair or replace all the major systems of a home – plumbing, electrical, HVAC, building envelope (we consider roof/insulation/windows to be a critical system) – to bring it up to current building standards and beyond. We also update kitchens, bathrooms, appliances, flooring, and fixtures to add to the durability and attractiveness of the houses.

The question of how large a portfolio of single-family homes should be included in the Community Development definition for CRA is also fairly straightforward: there shouldn’t be a limit, since banks will self-regulate out of necessity. It is hard to envision a bank investing in a single 5-unit apartment building, which would fall under the definition of multifamily and technically qualify for Community Development credit; the dollars involved compared to the time required to underwrite that investment do not make it worthwhile. The bank requires scale and would focus on sponsors who can deliver 10 or 30 five-unit buildings, or perhaps a handful of 20+ unit buildings. So too in the case of single-family rentals, banks would be more interested in a sponsor who can invest in 100s of single-family rental units. However, if a sponsor comes with a single 5-unit single family mini-portfolio, just as if a sponsor has an individual 5-unit multifamily property, the same rules should apply – if the bank is willing to put time into underwriting and financing the deal, the two options should equally qualify for Community Development credit. The size/scale is no different.

For all these reasons, we would strongly recommend that the final rule includes professionally managed single-family rentals within the multifamily rentals that qualify for Community Development/ investment test credit as part of the CRA. The SFR that would be included in Community Development would need to meet similar rent affordability requirements as the multifamily properties that are covered by the regulations.

Conclusion

Professionally managed single-family rentals that meet affordability requirements should be recognized as a form of multifamily housing, a complement to other initiatives aimed at expanding the supply of affordable rental units, and an important part of the multi-pronged approach to address affordable housing in this country. For that reason, affordable single-family rentals should be included in the regulations for Community Development.

⁸ Which also has added environmental benefits – by reusing the vast majority of the existing house infrastructure we utilizes less materials, do not need to create or ship lumber, concrete, etc. to the site. We create less waste through renovations than construction, thus sending less waste to landfill sites